B. Growth of

1944 **File No.** Food crops

Legal Department

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Subject:— A bill to Amend the Bombay Growth of Foodcrops Act, 1944.

(Amendment of S. 10 of ....)

Bom Act XVI of 1944

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page 10
1944.

File No. B Growth of ~~F~~oodcrops 44

Gen. 194 e.

Bom. XVI of 1944

561-B

C O N T E N T S.

Legal Department File No. B. Growth of Foodcrops/44.

Sr.No.	M.I./O.No.	Subject	Pages.
		A Bill to amend the Bombay Growth of Foodcrop Act, 1944.	
1	U.O. to R.D.No. 22-L dated 23rd June 1944.	Draft Bill	1-2
2	U.O. to R.D.No. 5854 dated 18th August 1944.	Revised draft Bill	3-4
3	G.L.L.D.No. 8445 dated 30th Nov.1944.	Requesting Governor to give assent	5-6
4	U.O. to R.D.No. 8459 dated 1st December 1944.	Notfn. applying the Act to the partially excluded areas.	7-10
5	L.D.R.I. No. 10465 dated 7th Dec.1944.	Governor's assent	11-12
6	G.R.L.D. No. 8671 dated 8th Dec.1944.	Publication of the Act.	13-18

A
21/7

Office of the R.L.A.

A draft Bill incorporating the draft amendment at pages 19-20 ante is sent herewith. The amendment made in sub-section (7) of section 10A at page 20 appears to be in order. The Statement at page 31 is in order.

2. The subject matter of the Bill falls under entries 1, 2, 20 and 21 of List II and entry 4 of List III in the Seventh Schedule to the Government of India Act, 1935. The Bill is not repugnant to any existing Indian Law relating to any matter in the Concurrent Legislative List. It is not, therefore, necessary to reserve it for the consideration of the Governor General with reference to section 107(2) of the Government of India Act, 1935 and para. (2) of the Proclamation.

Id/-

P.N.M.

23/6/44.

Remembrancer of Legal Affairs.

U.R. to R.D.,No.22-L,dated the 23rd June 1944.

R.D.P.
12/7/56

S.C.

Office of the R.L.A.

A revised draft Bill is sent herewith.

2. In view of provisions of sub-section(2) of section 1 of the Act new section 10A proposed by Secretary, R.D. would not be in order. To carry out the intention an amendment is made in sub-section(2) of section 1. Under the amended provision it would be open to Government to apply the provisions of section 10A (pages 19-20) to any particular area to which an order under section 4 applies.

3. Provision with regard to the other officers to be appointed by the Commissioner in respect of any area for the determination of rent has been made in the Explanation at the end of section 10A.

4. As regards the question raised by Secretary,R.D. in para.1 of his note dated 22nd July 1944 at pages 58-59 ante, although I am inclined to agree that the Bombay Growth of Foodcrops Act, 1944 is a law ejusdem generi with the Land Revenue Code, clearer reference to the Prant officers as appellate authorities in the new section 10A (3) appears necessary on the following grounds. Section 10 of the Land Revenue Code enables the Prant Officer to do duty for the Collector "subject to the provisions of Chapter XIII". That Chapter deals with "appeals and revision". Section 203 which appears in Chapter XIII by its opening words". In the absence of any express provision of ..... any law for the time being in force to the contrary," avoids the application of Chapter XIII to the Bombay Growth of Foodcrops Act, 1944 in which it is now proposed to insert the special provision as to appeals appearing in proposed clause 10A. Since proposed clause 10A would in relation to the Act do duty for Chapter XIII of the Code, it is doubtful if section 10 of the Code would extend its enablement to clause 10A. It is therefore safer to specify Prant Officers as appellate authorities.

5. The draft ~~xk~~ Statement at pages 71-72 ante, as slight amended, is in order.

Id/-

P.N.H.

18/8/44

Remembrancer of Legal Affairs.

U.R. to R.D.,No.5854, dated the 19th August 1944.

R.D.P.
12/7/56

S.C.

No.8445,
Legal Department,
Bombay Castle,30th November 194

From

P.N.Moos, Esquire, Bar-at Law, I.C.S.,
Secretary to the Government of Bombay.

To

The Secretary to the Governor of Bombay.

Subject: A Bill to amend the Bombay Growth of Foodcrops Act,1944.

Sir,

With reference to your memorandum No .201(106) dated the 12th October 1944 addressed to the Revenue Department on the above subject, I am directed to forward herewith for the assent of His Excellency the Governor a copy of the Bill to amend the Bombay Growth of Foodcrops Act,1944 prepared by His Excellency the Governor under paragraph (2) of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935.

2. None of the provisions of the Bill affects any special responsibility of the Governor under section 52(1) of the Government of India Act, 1935, or falls within the purview of clause (a),(b),(c) or (d) of paragraph XVII of the Instrument of Instructions to the Governor of Bombay.

3. The subject-matter of the Bill falls under entries 1,2,20 and 21 of the Provincial Legislative List and entry 4 of the Concurrent Legislative List in the Seventh Schedule to the Government of India Act, 1935. As the Bill does not contain any provision repugnant to any existing Indian law relating to any matter in the Concurrent Legislative List, it is not necessary to reserve it for the consideration of the Governor General under section 107(2) of the Government of India Act, 1935, and paragraph (2) of the Proclamation.

4. The date on which His Excellency the Governor's

assent is given may kindly be entered in the ~~xx~~ endorsement.

5. I also forward herewith one spare copy of the Bill.

Your obedient servant,

Id/-

P.N.M.

13/11/44.

Secretary to the Government of Bombay,
Legal Department.

Through:

The Jt. Secretary to the Government of Bombay,
Revenue Department.

R.D.P.
12/7/56

S.C.

No.201(106)
Office of the Governor's Secretary,
Government House,

From

D. Symington, Esquire, CIE.ICS.
Secretary to the Governor of Bombay

To

The Secretary to Government,
Legal Department,Bombay.

Bombay, 7th December 1944.

Subject: A Bill to amend the Bombay Growth of Foodcrops Act, 1944.

Sir,

With reference to your letter No.8445, dated 30th November 1944, I am directed to return herewith the copy of the Bill to amend the Bombay Growth of Foodcrops Act, 1944, prepared by His Excellency the Governor under paragraph(2) of the Proclamation,dated 4th November 1939, issued by him under section 93 of the Government of India Act, 1933, and to state that under the provisions of the aforesaid paragraph, His Excellency the Governor is pleased to declare that he assents to the Bill in the name of His Majesty.

Your obedient servant.

Sd/-

Secretary to the Governor of Bombay.

R.D.P.
12/7/56

S.C.

Acts.
Publication of the Bombay Growth of Foodcrops (Amendment) Act, 1944.

GOVERNMENT OF BOMBAY.
Legal Department.
Resolution No. 8671.
Bombay & Castle, 8th December 1944.

Letter to the Secretary to the Governor, No.8445, dated the 30th November 1944.

Letter from the Secretary to the Governor No.2912(106), dated the 7th December 1944.

"With reference to your letter No.8445, dated 30th November 1944, I am directed to return herewith the copy of the Bill to amend the Bombay Growth of Foodcrops Act, 1944, prepared by His Excellency the Governor under paragraph (2) of the Proclamation, dated 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, and to state that under the provisions of the aforesaid paragraph, His Excellency the Governor is pleased to declare that he assents to the Bill in the name of His Majesty."

RESOLUTION:- The law should be published as Bombay Act No.XVI of 1944 in the Bombay Government Gazette dated the 9th December 1944.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devanagari scripts) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Revenue Department.

By order of the Governor of Bombay,

Sd/-

For (P. N. Moos,
(Secretary to Government.

To
The Manager, Government Central Press, Bombay (with a copy of the Act and with a request that 15 gazette copies of the Act may be forwarded to the Legal Department).
The Revenue Department.) With a
*The Oriental Translator to Government.) copy of
*The Secretary to the Bombay Legislative Council.) the
The Secretary to the Bombay Legislative Assembly.) Act.

* With five extra copies.

R.D.P.
12/7/56

S.C.

Registered No. B-1

The Bombay Government Gazette

PUBLISHED BY AUTHORITY

SATURDAY, 9TH DECEMBER 1944.

Separate paging is given to this Part in order that it may be filed as a separate compilation

PART IV

(1) Acts of the Local Legislature of the Bombay Province and (2) Acts of the Indian Legislature assented to by the Governor General.

CONTENTS.

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BOMBAY ACT No. XVI OF 1944—An Act to amend the Bombay Growth of Foodcrops Act, 1944	248-251

The following Act made by the Governor of Bombay in exercise of the powers vested in him by virtue of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, having been assented to by him on the 6th December 1944 is hereby published for general information.

P. N. MOOS,
Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. XVI OF 1944

(First published, after having received the assent of the Governor, in the "Bombay Government Gazette" on 9th December 1944.)

An Act to amend the Bombay Growth of Foodcrops Act, 1944.

Bom. VIII of 1944.

WHEREAS it is expedient to amend the Bombay Growth of Foodcrops Act, 1944, for the purposes hereinafter appearing;

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature ; 26 Geo. 5, Ch. 2.

NOW, THEREFORE, in exercise of the said powers the Governor of Bombay is pleased to make the following Act :—

Short title.

1. This Act may be called the Bombay Growth of Foodcrops (Amendment) Act, 1944.

Amendment of section 1 of Bom. VIII of 1944.

2. To sub-section (*2*) of section 1 of the Bombay Growth of Foodcrops Act, 1944, hereinafter called the said Act, the following shall be added, namely :— Bom. VIII of 1944.

"save as follows, namely, section 10A shall take effect only in such area, and from such date as the Provincial Government may, by like notification, specify in this behalf."

Amendment of sections 3 and 4 of Bom. VIII of 1944.

3. In each of the sections 3 and 4 of the said Act, for the figures "1/4" the following shall be substituted, namely :—

"1/4, or such other proportion as may be fixed in this behalf by the Provincial Government either generally or in relation to any particular area or any particular mixed crop by notification published in the *Official Gazette* and in such other manner as it may consider expedient, whichever is greater,"

Insertion of new section 6A in Bom. VIII of 1944.

4. After section 6 of the said Act, the following new section shall be inserted, namely :—

Power of Provincial Government to amend Schedules.

"6A. The Provincial Government may, by notification in the *Official Gazette*, direct additions to or omissions from the list of crops specified in Schedule I or Schedule II either generally or with reference to any particular area specified in any such notification, and the Schedule shall on the issue of the notification be deemed to be amended accordingly."

Insertion of new section 10A in Bom. VIII of 1944.

5. After section 10 of the said Act, the following new section shall be inserted, namely :—

Determination of rent.

"10A. (*1*) In the areas where this section takes effect under the provisions of sub-section (*2*) of section 1, it shall be lawful for a tenant who is compelled to grow scheduled foodcrops on any land by the operation of an order under section 4 to apply in writing to the Mamlatdar within whose jurisdiction the land is situated for determination of the rent to be

paid by him in respect of the land; and thereupon notwithstanding anything contained in any law for the time being in force (including the Bombay Small Holders Relief Act, 1938, the Bombay Tenancy Act, 1939, and the Bombay Land Improvement Schemes Act, 1942) or any usage or agreement or decree or order of a Court of law, the rent payable by the tenant in respect of the land on which scheduled foodcrops are compulsorily grown shall be the rent determined under this section. The application shall be made in such form as may be prescribed by rules and shall be filed before the end of the tenancy year terminating on the 31st March.

Bom. VIII of 1938. Bom. XXIX of 1939. Bom. XXVIII of 1942.

(2) On receipt of an application under sub-section (1) the Mamlatdar shall give notice to the landlord and after holding a formal inquiry in the manner provided in the Bombay Land Revenue Code, 1879, shall determine the rent of the land.

Bom. V of 1879.

(3) Any party aggrieved by the decision of the Mamlatdar under sub-section (2) may, within one month from such decision, file an appeal before the Assistant or Deputy Collector in charge of the taluka in which the land is situated.

(4) The Assistant or Deputy Collector in appeal may for reasons to be recorded in writing annul, reverse, modify or confirm the decision of the Mamlatdar or he may direct further inquiry to be made on any point or take additional evidence as he may think necessary.

(5) The following factors shall be taken into consideration in determining the rent:—

(*i*) the rental values of similar lands used for purposes of growing scheduled foodcrops in the locality;

(*ii*) the prices of scheduled foodcrops in the locality;

(*iii*) improvements, if any, made in the land by the landlord during the tenancy year;

(*iv*) assessment payable in respect of the land; and

(*v*) such other factors as may be prescribed by rules.

(6) The Mamlatdar and the Assistant or Deputy Collector in proceedings under this section shall have the same powers as are vested in Courts in respect of the following matters under the Code of Civil Procedure, 1908, in trying a suit, namely:—

V of 1908.

(*i*) proof of facts by affidavit;

(*ii*) summoning and enforcing the attendance of any person and examining him on oath; and

(*iii*) compelling the production of documents.

The Mamlatdar and the Assistant or Deputy Collector may have also such other powers as may be prescribed by rules.

(*7*) The Mamlatdar or the Assistant or Deputy Collector may award costs in any proceedings under this section and such costs, together with the cost of execution, shall be recoverable from the party ordered to pay them as an arrear of land revenue.

(*8*) Every order passed by the Mamlatdar under this Act, if not appealed against, and every order passed by the Assistant or Deputy Collector in appeal, shall hold good only in respect of the tenancy year concerned and shall not be called in question in any Court.

(*9*) Notwithstanding anything contained in the Court-fees Act, 1870, every application under this section to the Mamlatdar and every appeal to the Assistant or Deputy Collector shall bear a court-fee stamp of such value as may be prescribed by rules. VII of 1870.

(*10*) Any party to proceedings under this section may appear by any person authorised in writing to act on his behalf.

Explanation.—For the purpose of this section, the word 'Mamlatdar' includes a Mahalkari and any other officer appointed by the Commissioner to perform the duties of a Mamlatdar in respect of any area under this section."

STATEMENT.

Clause 3.—It is necessary to secure power to raise the limit of 1/4th in sections 3 and 4 of Bom. VIII of 1944 to meet differing agricultural practices in the Province and power is being taken to do so, generally or in relation to particular areas or particular crop-mixtures.

Clause 4.—This clause gives power to the Provincial Government to add to, or cancel any of the crops specified in Schedules I and II either generally or with reference to specified areas to allow for different agricultural practices.

Clause 5.—The rents payable to the superior holders (landlords) by the inferior holders (tenants) are fixed by agreement; and some of these agreements are operative for a number of years. The rents are fixed in the light of cost of cultivation and the prices of agricultural produce that the tenant expects to raise from the lands leased and are therefore particularly high in the case of lands suitable for cultivation of tobacco and other valuable crops. In areas to which an order under section 4 of the Growth of Foodcrops Act is applied, the tenant's freedom to cultivate crops other than scheduled foodcrops is taken away. The relief provided under section 10 (*2*), namely, adjustment of rent in accordance with section 84A of the Bombay Land Revenue Code, is dependent on the grant of remission of land revenue under section 10 (*1*) and is entirely inadequate in the case of high rents agreed to in the case of lands suitable for growing valuable crops like tobacco. Legislative provision is, therefore, necessary to provide for adjustment of rents in the light of prices of scheduled foodcrops grown compulsorily on the tenant's holding, etc., and clause 5 is intended to secure this object.

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.